

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1522 of 2015

In
Miscellaneous Jurisdiction Case No.396 of 2011

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Md. Zahid Hussain @ Zahid Hussain @ Md. Shahid Hussain son of Late Gulam Hussian resident of mohalla Phulwarisharif , P.S. Phulwarisharif, District - Patna

... .. Petitioner/s

Versus

Ram Chandra Choudhary son of Late Nathuni Choudhary resident of village - Phulwarisharif, P.S. Phulwarisharif , district Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashutosh Tripathy, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

19 09-12-2021 This application is filed for restoration of M.J.C. No. 396 of 2011 which, in turn, was filed for restoration of C.R. No. 1772 of 2003, which was dismissed due to want of prosecution.

In the year 1972, a decree was obtained against a dead person, is the finding by the appellate Court i.e. the 6th Additional District Judge, Patna who allowed the objection petition filed by the judgment debtor in the execution proceedings initiated by the decree holder for getting the decree passed in Title Suit No. 102 of 1972 executed.

Challenging the order dated 31st of July, 2003, passed in Miscellaneous Appeal No. 89 of 2001, Ram Chandra Choudhary Vs. S. Mohammad Sahid Hussain & Ors., the



petitioner preferred a revision petition i.e. C.R. No. 1772 of 2003, titled as Md. Zahid Hussain alias Zahid Hussain alias S. Mohammad Sahid Hussain Vs. Ram Chandra Chaudhary, which was dismissed for want of prosecution on 8th of April, 2010.

Petitioner moved an application seeking recall of the said order and restoration of the petition which also stood dismissed on 17th of August, 2011. After a period of almost four years, the petitioner has filed the instant petition on 13th of May, 2015 seeking recall of the order dismissing the restoration application i.e. M.J.C. No.396 of 2011 as also the peremptory order dated 17.08.2011.

The petition, in the considered view of the Court, does not disclose reasons sufficient enough for explaining the delay in pursuing the matter diligently. Be it in the first application for restoration or the instant application, one of the reasons assigned is that the learned counsel had become a Standing Counsel, as such, could not pursue the matter, but then this is not substantiated by any material. That apart, petitioner does not state as to why he remained silent and did not pursue the matter filed in the year 2003. It is not that he is a rustic villager; had no access to legal aid; or was not known to the



justice delivery system. After all, he had been pursuing the matter since the year 1972. It is the duty of the client to follow up the matter with the counsel and not always the other way alone.

As such, no ground for interference is made out.

The present petition stands dismissed.

(Sanjay Karol, CJ)

K.C.Jha/-

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